



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Carol A. Spiegel  
Telephone: (703) 308-9797  
Facsimile: (703) 305-0942

MAILED

APR 29 2004

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Applicants: Parks et al.  
Application No.: 09/769,621  
Filed: 01/23/01  
For: Compositions and methods for  
the treatment of anorectal disorders

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,218.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

Carol A. Spiegel  
Carol A. Spiegel  
Administrative Patent Judge

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 1

Filed by: Carol A. Spiegel  
Administrative Patent Judge  
Board of Patent Appeals and Interferences  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Tel: 703-308-9797  
Fax: 703-305-0942

Filed: April 29, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge Carol A. Spiegel)

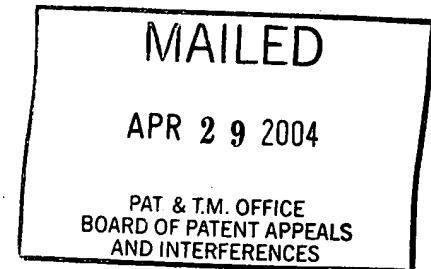
BARRY S. FOGEL

Junior Party,  
U.S. Patent 6,117,877

v.

THOMAS P. PARKS, VIVIEN MAK,  
JUNG-CHUNG LEE and  
CHARLES LEE

Senior Party,  
U.S. Application 09/769,621



Patent Interference No. 105,218

NOTICE DECLARING INTERFERENCE  
(37 CFR § 1.611)

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or not corresponding to the count(s)

appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

**Part B. Judge designated to handle the interference**

Administrative Patent Judge Carol A. Spiegel has been designated to handle the interference. 37 CFR § 1.601(a).

**Part C. Standing order**

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

**Part D. Conference call to discuss how to next proceed**

A telephone call to set dates for taking action in the interference is scheduled for 2:00 p.m. on June 24, 2004 (the call will be initiated from the PTO).

No later than **two business days** prior to the conference, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See STANDING ORDER ¶ 10.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical preliminary motion period last approximately nine (9) months. A schedule of default times for taking action is attached. Counsel should be prepared to justify any request for a shorter or longer period.

The parties are also invited to consider participation in a voluntary electronic filing pilot project. A sample order setting procedures for electronic transmittal of papers is attached.

**Part E. The parties involved in this interference are:**

**Junior Party**

Named inventors: BARRY S. FOGEL, Waban, Massachusetts

Patent: U.S. Patent 6,117,877,  
issued September 12, 2000,  
based on U.S. application 09/258,828,  
filed February 25, 1999

Title: METHOD FOR TREATING PAINFUL CONDITIONS  
OF THE ANAL REGION AND COMPOSITIONS  
THEREFOR

Assignee: Synchroneuron, LLC

Accorded Benefit: None

Attorneys: See last page

Address: See last page

Senior Party

Named inventors: THOMAS P. PARKS, San Mateo, California  
VIVIEN MAK, Palo Alto, California  
JUNG-CHUNG LEE, Sunnyvale, California  
CHARLES LEE, Union City, California

Application: U.S. Application 09/769,621,  
filed January 23, 2001

Title: COMPOSITIONS AND METHODS FOR THE  
TREATMENT OF ANORECTAL DISORDERS

Assignee: Cellegy Pharmaceuticals, Inc.

Accorded Benefit: U.S. Patent 6,395,736,  
issued May 28, 2002,  
based on U.S. application 09/460,306,  
filed December 13, 1999

provisional U.S. application 60/155,318,  
filed September 21, 1999

provisional U.S. application 60/139,916,  
filed June 17, 1999

provisional U.S. application 60/112,325,  
filed December 14, 1998

Attorneys: See last page

Address: See last page

**Part F. Count and claims of the parties**

Count 1

A method according to claim 1 of Fogel (6,117,877) wherein the  $\alpha$ -adrenergic blocker is an  $\alpha_1$ -adrenergic antagonist topically applied to the anal region

or

a method according to claim 36 of Parks (09/769,621).

The claims of the parties are:

Fogel:	1-22
Parks:	34-40 and 42-48

The claims of the parties which correspond to Count 1 are:

Fogel:	1-22
Parks:	34-40 and 42-48

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Fogel:	none
Parks:	none

**Part G. Heading to be used on papers**

The following heading shall be used on papers filed in the interference. See  
**STANDING ORDER ¶ 3.5.**

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Filed on behalf of [name of party]  
By: Name of lead counsel  
Name of backup counsel  
Street address  
City, State, and Zip-Code  
Tel:  
Fax:

Paper       <sup>1</sup>

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**  
(Administrative Patent Judge Carol A. Spiegel)

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**BARRY S. FOGEL**

Junior Party,  
U.S. Patent 6,117,877

v.

**THOMAS P. PARKS, VIVIEN MAK,  
JUNG-CHUNG LEE and  
CHARLES LEE**

Senior Party,  
U.S. Application 09/769,621

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Patent Interference No. 105,218

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**TITLE OF PAPER**

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<sup>1</sup> Leave a blank line because the board assigns the paper number.

**Part H. Summary of dates for taking action**

Times for taking action are set out in the following sections of the STANDING ORDER:

- ¶ 4: date for identifying lead and backup counsel.
- ¶ 5: date for identifying any real party in interest.
- ¶ 6: date for requesting copies of involved and benefit applications and patents.
- ¶ 7: date for accomplishing certain discovery.
- ¶ 8: date for filing clean copy of claims.
- ¶ 9: date for filing clean copy of claims with drawings or claims containing a means plus function limitation.
- ¶ 10: date for filing list of proposed preliminary motions.
- ¶ 13.10.2: dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
- ¶ 14.1.1: date for objecting to admissibility of evidence.
- ¶ 14.2: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
- ¶ 14.3: dates when cross-examination can take place.
- ¶ 15.2: dates for taking action with respect to settlement discussions.

**Part I. Order form for requesting file copies**

**FILE COPY REQUEST**

Interference 105,218 (CAS)

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. \_\_\_\_\_
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

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Telephone, including area code: \_\_\_\_\_

**Part J.      Signature of administrative patent judge**

*Carol A. Spiegel*  
CAROL A. SPIEGEL  
Administrative Patent Judge

Date: April 29, 2004

Enc: Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference

Copy of order used for setting times for taking action in the testimony and briefing phases of the interference

Copy of Electronic filing/pilot project order

Copy of U.S. Patent 6,117,877

Copy of claims of application 09/769,621

Copy of schedule of "Preliminary Motions -- Default times for taking action"

cc (via overnight delivery):

Fogel (real party in interest:  
Synchroneuron, LLC):

Sam Pasternack, Esq.  
CHOATE HALL & STEWART  
EXCHANGE PLACE  
53 STATE STREET  
BOSTON MA 02109-2891  
Tel: 617-248-5000

Parks (real party in interest:  
Cellegy Pharmaceuticals, Inc.):

William B. Kezer, Esq.  
TOWNSEND and TOWNSEND and CREW LLP  
8th Floor  
Two Embarcadero Center  
San Francisco CA 94111-3834  
Tel: 415-576-0200  
Fax: 415-576-0300